

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
Petition for Rulemaking or, Alternatively, a)	
Waiver of the Closed Bidding Rules for C)	RM – 11019
Block Licenses in the Broadband Personal)	
Communications Services)	

To the Commission:

Reply Comments of Nokia Inc.

Pursuant to Section 1.405 of the Commission's rules, Nokia Inc. ("Nokia") respectfully submits these Reply Comments in support of the CTIA – the Wireless Association ("CTIA"), petition to modify the Commission's auction participation rules to remove the entrepreneur eligibility restrictions in order to permit open bidding for all C block licenses that will be made available in future auctions, including Auction 58.¹ Nokia is the world's leading supplier of mobile telephones and is a leading supplier of mobile, fixed and Internet Protocol networks and related services as well as multimedia terminals. As a world leader in wireless telecommunications infrastructure equipment, Nokia has a direct interest in this proceeding and is pleased to have this opportunity to provide these reply comments in response to several of the proposals made in the Petition and the initial comments of other parties. Nokia is a member of CTIA and as such supported the filing of the Petition. The record in response to the Petition demonstrates that the Commission's closed bidding rules are inefficient and

¹ See *Public Notice*, Report No. 2663, RM 11019 (rel. July 15, 2004) seeking comment on CTIA – the Wireless Association Petition for Rulemaking or, Alternatively, a Waiver of the Closed Bidding Rules for C Block Licenses in the Broadband Personal Communications Services, RM-11019 (filed July 8, 2004) ("Petition").

unnecessary and that the FCC should eliminate them and provide for open bidding in Auction 58.

Nokia supports the goal of the Commission's original Designated Entity ("DE") rules to provide increased opportunities for small businesses to participate in the Commercial Mobile Radio Service ("CMRS") market. However, Nokia believes that on balance, the proposed closed bidding rules will serve to hinder the efficient delivery of affordable wireless communications to the public and that there are more effective methods, such as bidding credits and the opportunities created by the Commission's spectrum leasing, disaggregation and secondary markets rules, to achieve the laudatory goal of increasing small business participation in the provision of CMRS service. Recent experience demonstrates that closed bidding rules results in inefficient and expensive licensing and business arrangements whereby non-DE carriers are forced to enter into complex partnership agreements with eligible DEs to access desperately needed spectrum. Such arrangements needlessly increase the transaction costs of putting this spectrum to use by the public and the money spent creating and maintaining these unnecessary relationships would be better spent by carriers investing in the provision of advanced wireless services for the public.

In addition to these increased and unnecessary costs, several commenters clearly demonstrate the fundamental point that the Commission's restrictive bidding rules simply have not worked in promoting small business participation in the provision of CMRS service. T-Mobile notes that the rules "have proven ineffective at promoting entrepreneurship in the PCS bands . . . Bidders in these bands inevitably overbid for their licenses and most designated entity licensees have either gone bankrupt or are simply waiting to be bought by a larger provider."² Verizon Wireless notes that the "history of set-asides . . . largely has failed to result in the provision of wireless service

by designated entities.”³ Sprint correctly “submits that the need for yet another auction of this spectrum is itself a testament to the fact that the FCC’s prior “set-aside” programs for C block licenses, though well-intentioned, have not been effective in furthering stability or the spectrum objectives set forth in Section 309(j) of the Act.”⁴

As noted by CTIA and others, circumstances have changed dramatically since the Commission first adopted auction rules that set-aside certain frequency blocks for bidding by DEs only.⁵ These changes have continued, and even accelerated, since the Commission adopted the modified entrepreneur eligibility rules for Auction 35 that it proposes to apply to Auction 58.⁶ The continuing need for and increasing scarcity of prime PCS spectrum by national carriers, coupled with the recent availability of the more efficient mechanisms noted above that allow DEs to access spectrum and provide CMRS service, demonstrate that the Commission’s closed bidding rules are indeed “outmoded”⁷ and should be eliminated to allow for open bidding on C and F block licenses.

Nokia agrees with commenters who argue that a focused rulemaking proceeding addressing only the issue of eliminating eligibility restrictions can be accomplished rapidly and should not delay Auction 58.⁸ As noted by several commenters, the Commission has previously completed auction eligibility rulemakings in less than six months without delaying the scheduled start of an auction. It can do the same thing here. Because a sufficient record will exist with regard to the issue of eliminating eligibility restrictions, the Commission can establish a very short comment and reply

² Comments of T-Mobile at ii.

³ Comments of Verizon Wireless at 6.

⁴ Comments of Sprint at 1-2.

⁵ Petition at 5-10; Comments of T-Mobile at 5-7; Comments of Motorola at 2-3.

⁶ Petition at 7-9; *see also*, Comments of Verizon Wireless at 3.

⁷ Comments of Motorola at 1.

⁸ *Id.* at 3; Comments of Verizon Wireless at 7; Comments of T-Mobile at 16.

comment cycle and make the necessary and minor modifications to its rules without delaying the start of Auction 58. As pointed out by T-Mobile, even if such changes resulted in a delay, it “will be extremely brief, and more than made up for post-auction by the much more rapid licensing and actual deployment of the spectrum that an open auction will make possible.”⁹ Such a result is in the public interest and Nokia urges the Commission to quickly grant the Petition and initiate a rulemaking to eliminate its eligibility restrictions for Auction 58 and subsequent spectrum auctions.

Respectfully submitted,

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⁹ Comments of T-Mobile at 16.